

CAUSE NO. PD-1319-19

FILED
COURT OF CRIMINAL APPEALS
10/21/2021
DEANA WILLIAMSON, CLERK

**IN THE
COURT OF CRIMINAL APPEALS
OF TEXAS**

CARLOS LOZANO, Appellant

v.

THE STATE OF TEXAS

**MOTION FOR EXTENSION OF TIME
TO FILE MOTION FOR REHEARING**

Of the Court's Opinion on the State's Petition for Discretionary Review
Issued on October 6th, 2021

From the Eighth District Court of Appeals Decision in Cause Number 08-17-00251-CR
Styled as *Carlos Lozano v. The State of Texas* on November 1st, 2019

Reversing the Judgment of the 384th Judicial District Court of El Paso County, Texas
In Cause Number 2016-0D-00209
Styled as *The State of Texas v. Carlos Lozano* and Rendered on September 18th, 2017

TO THE HONORABLE COURT OF CRIMINAL APPEALS OF TEXAS:

COMES NOW the Appellant/Applicant, CARLOS LOZANO, and files this *First Motion for Extension of Time to File a Motion for Rehearing* pursuant to Texas Rule of Appellate Procedure 79.6; and in support thereof would show the following:

1. The 384th Judicial District Court of El Paso County, Texas rendered Judgment in Cause Number 2016-0D-00209 styled as *The State of Texas v. Carlos Lozano* on September 18th, 2017 on a conviction for the criminal offense of Murder.
2. On November 1st, 2019 however the Court of Appeals for the Eighth District in El Paso, Texas issued an Opinion reversing the Trial Court's Judgment in Cause Number 08-17-00251-CR.
3. The State timely filed a *Petition for Discretionary Review* and this Honorable Court issued an Opinion reversing the decision of the Eighth District Court of Appeals on October 6th, 2021 in Cause Number PD-1319-19.
4. Accordingly, the deadline for filing a *Motion for Rehearing* in this matter is October 21st, 2021 pursuant to Texas Rule of Appellate Procedure 79.1 after the expiration of 15 days from the date of judgment.
5. However, there was a critical ambiguity in the Court's Holding – which was brought to the attention of the Court Clerk's Office by the undersigned and newly hired counsel for the Appellant/Applicant, Tate N. Saunders – as the holding only indicated that the Court was “reversing” the judgment of the Court of Appeals without delineating whether the Court was “reversing and remanding” the case for further judgment or “reversing and rendering judgment” as required by Rule 78.1 of the Texas Rules of Appellate Procedure. *See* Slip Opinion of the Texas Court of Criminal Appeals at 18 (issued on October 6th, 2021).
6. Indeed, this Honorable Court felt that omission of the particulars of the procedural outcome in this matter necessitated the issuance of a “Corrected Opinion” which was subsequently entered on October 19th, 2021 – a mere two days before the deadline for filing a *Motion for Rehearing*. *See* Slip Opinion of the Texas Court of Criminal Appeals at 18 (corrected and re-issued on October 19th, 2021).
7. Due to the confusion with the Court's Order and given the fact that the Appellant/Applicant has just retained the undersigned new counsel, Tate N. Saunders, to pursue a *Motion for Rehearing* and any other appellate or post-conviction remedies that might be available to him, the Appellant/Applicant respectfully requests a thirty (30) day extension of time to evaluate the merits of the case and prepare a sufficiently cogent *Motion for Rehearing* on this matter for the Court's consideration.
8. This is the Appellant/Applicant's *First Motion for Extension of Time to File a Motion for Rehearing*.

WHEREFORE PREMISES CONSIDERED, the Appellant/Applicant, Carlos Lozano, respectfully requests that this Honorable Court grant a thirty (30) day extension of time to file his *Motion for Rehearing*.

RESPECTFULLY SUBMITTED on this the 20th day of October 2021,

THE LAW OFFICE OF TATE N. SAUNDERS
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BY: 

TATE N. SAUNDERS
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Attorney for the Appellant/Applicant,
Carlos Lozano

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was served on the attorneys of record for the State, Ronald Banerji, at his email of record of rbanjeri@epcounty.com and the State Prosecuting Attorney's Office, John R. Messinger, at his email of record, information@spa.texas.gov on this the 20th day of October 2021 via e-service/email.

BY: 

TATE N. SAUNDERS
State Bar No. 00794594
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Associated Case Party: Carlos Lozano

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